

7-15-2016

# State v. Tregeagle Appellant's Brief Dckt. 44098

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

MARVIE J. TREGEAGLE,

Defendant-Appellant.

Case No. CRMD 2015-4410  
Supreme Court No. 44098

APPELLANT'S BRIEF

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

HONORABLE GERALD F. SCHROEDER, District Judge

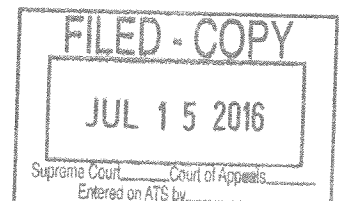
HONORABLE THOMAS WATKINS, Magistrate Judge

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## TABLE OF CONTENTS

Statement of the Case.....	1
Issue Presented on Appeal.....	1
Standard of Review.....	1
Argument.....	2-5
I.    Ms. Tregeagle displayed her vehicle’s rear license plate in conformity with the plain language of I.C. § 49-428(2).....	2
II.   Seizing Ms. Tregeagle violated her right to be free from unreasonable seizures under Art. I, Sec. 17 of the Constitution of the State of Idaho because driving a vehicle in Idaho with a partially obstructed license plate is within the broad range of what can be described as normal driving behavior.....	4
Conclusion.....	5

## TABLE OF AUTHORITIES

### Constitutional Provisions

<i>U.S. Const. amend. IV</i> .....	2
<i>U.S. Const. amend. XIV</i> .....	2
<i>Idaho Const. art. I sec. XVII</i> .....	2, 4

### Statutes

I.C. § 49-428(1).....	5
I.C. § 49-428(2).....	2-5

### Cases

<i>Crawford v. Dept. of Correction</i> , 133 Idaho 633, 635, 991 P.2d 358, 360 (1999).....	2
<i>Delaware v. Prouse</i> , 440 U.S. 648, 653-54, 99 S. Ct. 1391, 1396 (1979).....	1
<i>State v. Atkinson</i> , 128 Idaho 559, 916 P.2d 1284 (Ct. App. 1996).....	4
<i>State v. Curl</i> , 125 Idaho 224, 227, 869 P.2d 224, 227 (1993).....	2
<i>State v. Cutler</i> , 143 Idaho 297, 301, 141 P.3d 1166, 1170 (Ct. App. 2006).....	2
<i>State v. Geissler</i> , 134 Idaho 902, 905, 11 P.3d 1120, 1123 (Ct. App. 2000).....	4
<i>State v. Guzman</i> , 122 Idaho 981, 987, 842 P.2d 660, 666 (1992).....	4
<i>State v. Pruss</i> , 145 Idaho 623, 626, 181 P.3d 1231, 1234 (2008).....	2, 4
<i>State v. Roe</i> , 140 Idaho 176, 179, 90 P.3d 926, 929 (Ct. App. 2004).....	1, 4
<i>State v. Salois</i> , 144 Idaho 344, 347, 160 P.3d 1279, 1282 (Ct. App. 2007).....	2

<i>State v. Schwartz</i> , 139 Idaho 360, 362, 79 P.3d 719, 721 (2003).....	2
<i>State v. Watts</i> , 131 Idaho 782, 963 P.2d 1219 (1998).....	2
<i>Verska v. Saint Alphonsus Reg'l Med. Ctr.</i> , 151 Idaho 889, 893, 265 P.3d 502, 506 (2011).....	2
<i>Wong Sun v. United States</i> , 371 U.S. 471, 83 S. Ct. 407 (1963).....	2

## STATEMENT OF THE CASE

This is an appeal from the district court's "Opinion on Appeal" affirming the magistrate's denial of Ms. Tregeagle's motion to suppress.

On March 10, 2015, Marvie Tregeagle was driving southbound on South Five Mile Road in Boise, Idaho, in her white Chevrolet truck. Officer Pickard of the Ada County Sheriff's Office was traveling directly behind Ms. Tregeagle's vehicle. Officer Pickard initiated a traffic stop because a trailer ball hitch was obstructing his view of two letters on the rear license plate. The license plate was securely attached to the bumper in its designated location. The trailer ball appears to be part of the bumper itself, rather than an aftermarket attachment.

Illegal contraband was discovered in the vehicle, and Ms. Tregeagle was charged with misdemeanor possession of marijuana. Ms. Tregeagle entered a conditional guilty plea to the charge and appealed the magistrate's denial of her motion to suppress.

## ISSUE

Did the district court err in affirming the magistrate's finding that the traffic stop was justified based on a violation of Idaho Code Section 49-428(2) where the vehicle's rear license plate was in a position to be clearly visible and in a condition to be clearly legible?

## STANDARD OF REVIEW

The standard of review of a suppression motion is bifurcated. When a decision on a motion to suppress is challenged, we accept the trial court's findings of fact which are supported by substantial evidence, but we freely review the application of constitutional principles to the facts as found.

*State v. Roe*, 140 Idaho 176, 179, 90 P.3d 926, 929 (Ct. App. 2004) (citation omitted).

## ARGUMENT

The Fourth and Fourteenth Amendments to the United States Constitution and Article I, Section 17 of the Idaho Constitution together protect citizens against unreasonable searches and seizures. *State v. Salois*, 144 Idaho 344, 347, 160 P.3d 1279, 1282 (Ct. App. 2007); *State v. Pruss*, 145 Idaho 623, 626, 181 P.3d 1231, 1234 (2008). The purpose of this legal principle is to “impose a standard of ‘reasonableness’ upon the exercise of discretion by government officials, including law enforcement agents, to ‘safeguard the privacy and security of individuals against arbitrary invasions.’” *Delaware v. Prouse*, 440 U.S. 648, 653-54, 99 S. Ct. 1391, 1396 (1979). “An investigative detention is constitutionally permissible when based upon reasonable suspicion, derived from specific articulable facts, that the person stopped has committed or is about to commit a crime.” *State v. Cutler*, 143 Idaho 297, 301, 141 P.3d 1166, 1170 (Ct. App. 2006) (citation omitted). Any evidence obtained in violation of these constitutional protections must be suppressed in a criminal prosecution of the person whose rights were violated. *See, e.g., State v. Curl*, 125 Idaho 224, 227, 869 P.2d 224, 227 (1993) citing *Wong Sun v. United States*, 371 U.S. 471, 83 S. Ct. 407 (1963).

A. Ms. Tregeagle displayed her vehicle’s rear license plate in conformity with the plain language of I.C. § 49-428(2).

“The interpretation of a statutory provision must begin with the literal words of the statute, giving the language its plain, obvious and rational meaning.” *Crawford v. Dept. of Correction*, 133 Idaho 633, 635, 991 P.2d 358, 360 (1999) citing *State v. Watts*, 131 Idaho 782, 963 P.2d 1219 (1998). If the statute is not ambiguous it must be followed as the law was written. *State v. Schwartz*, 139 Idaho 360, 362, 79 P.3d 719, 721 (2003) (abrogated on other grounds by *Verska v. Saint Alphonsus Reg’l Med. Ctr.*, 151 Idaho 889, 893, 265 P.3d 502, 506 (2011)). Idaho Code section 49-428(2) provides, in pertinent part:

Every license plate shall at all times . . . be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible . . . .

This code section provides a list of conditions that must be met to properly display a vehicle's license plate, but as to other objects attached to the vehicle, I.C. § 49-428(2) is absolutely silent.

According to Officer Pickard, the sole basis for the traffic stop was a violation of I.C. § 49-428(2). Specifically, Officer Pickard testified that while driving his patrol vehicle directly behind Ms. Tregeagle's truck he was unable to read two digits of the truck's rear license plate. (11/10/2015 Tr. p.3, Ls.21-23.) The truck's trailer ball hitch, mounted in the recess of the bumper, impeded his view. (Tr. p.3, L.25—p.4, Ls.1-3.) However, Officer Pickard testified that he could read the entire plate from approximately ten feet away (Tr. p.13, Ls.12-16) and that if he had been driving a taller vehicle, it is possible he could have read the entire plate from his own vehicle. (Tr. p.12, Ls. 21-25—p.13, L.1.) He also admitted that the obstruction he observed was a result of his vantage point (Tr. p.12, Ls.19-20) or the angle from which he observed the plate. (Tr. p.6, Ls.19-20.) Officer Pickard did not, however, attempt to view the license plate from a different angle. (Tr. p.4, Ls.4-7).

The district court erred in holding that the rear license plate was not "in a place and position to be clearly visible." (Op. on Appeal 5.) State's Exhibit 1 shows that the trailer ball hitch was in its designated location; it does not appear to be an after-market attachment or suspicious in its size or placement. Moreover, the statute in question does not require every digit of every license plate to be visible from every possible angle; it also does not clearly require drivers to alter the ordinary state of their vehicles to avoid non-compliance. Idaho Code § 49-428(2) governs only the license plate itself and does not criminalize attachments to the vehicle. Therefore, Officer Pickard lacked reasonable, articulable suspicion to detain Ms. Tregeagle.



B. Seizing Ms. Tregeagle violated her right to be free from unreasonable seizures under Art. I, Sec. 17 of the Constitution of the State of Idaho because driving a vehicle in Idaho with a partially obstructed license plate is within the broad range of what can be described as normal driving behavior.

Idaho courts are “free to interpret our state constitution as more protective of the rights of Idaho citizens than the United States Supreme Court’s interpretation of the federal constitution.” *State v. Guzman*, 122 Idaho 981, 987, 842 P.2d 660, 666 (1992). In Idaho, suspicion is not justified “if the conduct observed by the officer fell within the broad range of what can be described as normal driving behavior.” *State v. Roe*, 140 Idaho 176, 180, 90 P.3d 926, 930 (Ct. App. 2004) citing *State v. Atkinson*, 128 Idaho 559, 916 P.2d 1284 (Ct. App. 1996).

Officer Pickard testified that he has seen other attachments, such as bike racks and trailers, obstructing the rear license plate on vehicles, but that he chooses not to detain those vehicles and their drivers. (11/10/2015 Tr. p.14, Ls. 2-19.) This testimony suggests that Officer Pickard knows that having items attached to the back of a vehicle is normal and not indicative of criminal behavior. Indeed, Idahoans regularly use trailers and, by necessity, trailer ball hitches for commerce and recreation. *See, State v. Pruss*, 145 Idaho 623, 627, 181 P.3d 1231, 1235 (2008) (“Utilizing public lands for outdoor recreational activities is a longstanding custom in this State that is recognized as valuable to society.”) Rear license plates are regularly “obstructed” as the State understands it, by bike racks, wheelchair racks, horse trailers, utility trailers, and recreational vehicles. Officer Pickard admitted that such a trailer would be obstructing, in his view, the plate of the vehicle towing it. (Tr. p.15, Ls. 16-21.)

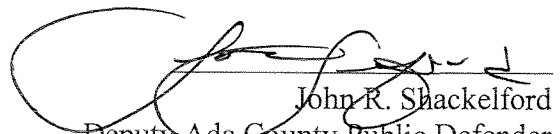
It therefore seems to be the State’s position that pulling a trailer in Idaho is illegal unless the driver of the towing vehicle removes the rear license plate and attaches it to the towed vehicle. Such conduct would likely be illegal however, and valid grounds for law enforcement to detain the vehicle. *See, e.g., State v. Geissler*, 134 Idaho 902, 905, 11 P.3d 1120, 1123 (Ct.

App. 2000) (officer reasonably investigated violation of I.C. § 49-456(2) where license plates registered to a passenger car were found on a pickup truck) and I.C. § 49-428(1) (“License plates assigned to a motor vehicle shall be attached, one (1) in the front and the other in the rear . . .”). In short, the law and history of the State of Idaho support the conclusion that Officer Pickard lacked reasonable, articulable suspicion to seize Ms. Tregeagle because having a partially obstructed license plate from a single view-point is within the broad range of normal driving behavior.

### CONCLUSION

Officer Pickard seized Ms. Tregeagle because her vehicle’s trailer ball hitch obstructed the officer’s view of two digits of the rear license plate. Idaho Code § 49-428(2) only requires that the plate be in a position to be clearly visible—it does not require every digit to be legible from every angle from which it can possibly be viewed. Moreover, a simple trailer ball hitch cannot create a reasonable suspicion of criminal activity because “obstructed” rear license plates are so common in Idaho. For these reasons, Ms. Tregeagle’s right to be free from unreasonable seizure under the United States and Idaho constitutions was violated. The district court therefore erred in affirming the magistrate’s denial of Ms. Tregeagle’s motion to suppress. Ms. Tregeagle respectfully requests this Court to reverse the finding of the district court and vacate the judgment of conviction. Oral argument is also requested.

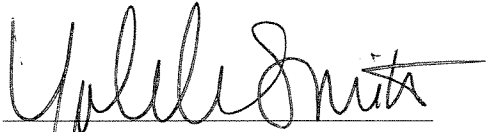
Respectfully submitted this 15<sup>th</sup> day of July 2016.

  
John R. Shackelford  
Deputy Ada County Public Defender

## CERTIFICATE OF SERVICE

I certify that I caused to be served a correct copy of the Appellant's Brief on this 15<sup>th</sup> day of July 2016 by sending it to:

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A handwritten signature in black ink, appearing to read "Yolanda Smith", written over a horizontal line.

Yolanda Smith  
Ada County Public Defender  
Legal Assistant